

**GE KARAS**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In the Matter of the Application of

MEHLON TRUCKING, INC.,

Petitioner-Plaintiff,

-against-

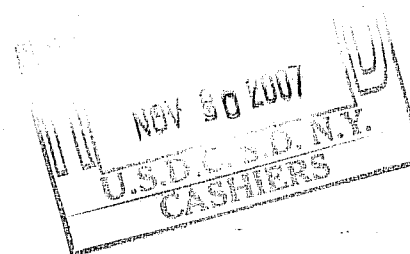
THE PLANNING BOARD OF THE TOWN OF  
MONTGOMERY and JOHN L. BROWN, as Chairman of  
the Planning Board of the Town of Montgomery, TOWN  
OF MONTGOMERY TOWN BOARD and TOWN OF  
MONTGOMERY,

Respondents-Defendants.  
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**07 CV 10711**

**NOTICE OF REMOVAL**

Docket No.



Respondents TOWN OF MONTGOMERY TOWN BOARD and TOWN OF  
MONTGOMERY, by their attorneys, MIRANDA SOKOLOFF SAMBURSKY SLONE  
VERVENIOTIS, LLP, as and for their Notice of Removal, set forth as follows:

1. This action/proceeding was commenced in the Supreme Court of the State of  
New York, County of Orange, against the PLANNING BOARD OF THE TOWN OF  
MONTGOMERY and JOHN L. BROWN. On October 31, 2007, Supreme Court, Orange  
County issued an order permitting petitioner/plaintiff to add as new parties the TOWN OF  
MONTGOMERY TOWN BOARD and the TOWN OF MONTGOMERY. A copy of that  
decision is annexed hereto as Exhibit "A".

2. Petitioner brings this action/proceeding, under state and federal law, claiming,  
among other things, that their federal constitutional rights were violated by  
respondents/defendants in the handling of an application by petitioner/plaintiff to engage in  
mining on its property. Petitioner/plaintiff's Fifth and Sixth Causes of Action allege

violation of the U.S. Constitution. A copy of the supplemental summons and amended verified petition and complaint is annexed hereto as Exhibit "B".

3. This case, therefore, falls within this court's federal question jurisdiction, 28 U.S.C. § 1331. Respondents are to remove this action pursuant to 28 U.S.C. § 1441(b), which provides, in pertinent part:

Any civil action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the United States shall be removable without regard to the citizenship or residence of the parties. Any other such action shall be removable only if none of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.

4. The Town of Montgomery Town Board and the Town of Montgomery first received the amended verified petition on November 14, 2007.

**WHEREFORE**, respondents/defendants pray that the above-captioned proceeding, now pending in the Supreme Court of the State of New York, County of Orange, be removed therefrom to this Court.

Dated: Mineola, New York  
November 27, 2007

MIRANDA SOKOLOFF SAMBURSKY  
SLONE VERVENIOTIS, LLP  
Attorneys for Respondents

By: 

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